

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: NOAH DEVELOPMENT
CORPORATION.

FHFC Case No. : 2010-027VW

**ORDER DISMISSING PETITION FOR WAIVER
OF RULES 67-48.0092(2), and 67-48.0105(4), FLORIDA
ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on October 22, 2010, pursuant to a "Petition for the of Waiver of Rule 67-48.0092(2) F.A.C., and the Application of Rule 67-48.0105(4) F.A.C. and the Waiver of Interest Charged and accumulated under SAIL Loan 90S-001" (sic) (the "Petition"), filed by NOAH Development Corporation. ("Petitioner") on August 5, 2010. On August 20, 2010 Florida Housing published the Notice of the Petition in Volume 36, Number 33, of the Florida Administrative Weekly. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised in the premises, the Board of Directors (the "Board") of Florida Housing hereby finds:

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della M. Harrell / DATE: 10/22/10

1. The Board has jurisdiction over the subject matter and the parties and the parties hereto.

2. During SAIL Cycle II (1990), Florida Housing awarded a State Apartment Incentive Loan (SAIL) loan in the amount of \$1,118,000 to NAOH Development Corporation to finance the construction of Doveland Villas in Palm Beach County, Florida to serve the demographic of the extremely low and farmworkers.

3. Petitioner's SAIL loan has matured and Petitioner is in default on the repayment of the accumulated interest owed under the loan. Although Petitioner requests a waiver of Rule 67-48.009(2) and 67-48.0105(4), F.A.C., in the heading of its Petition, it is apparent from the pleadings that Petitioner is actually requesting that Florida Housing apply rules 67-48.0105(4), 67-48.010(3)(a) and 67-48.009(2)(b), F.A.C., to its SAIL loan. Petitioner is seeking relief from repayment.

4. Section 120.542(2), Florida Statutes provides in pertinent part:

Variations and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

5. Section 120.542(2), Florida Statutes is not applicable in this situation where Petitioner is seeking to have rules applied to its SAIL loan in order to seek

relief from the terms of the loan. Section 120.542(2), Florida Statutes is applied only in circumstances where a petitioner is seeking relief from the application of rules to its particular circumstances. The rules from which Petitioner is seeking a waiver were not in effect at the time Petitioner's SAIL loan was awarded, do not apply to Petitioner's SAIL Loan, and thus cannot be waived.

IT IS THEREFORE ORDERED:

The "Petition for the of Waiver of Rule 67-48.0092(2) F.A.C., and the Application of Rule 67-48.0105(4) F.A.C. and the Waiver of Interest Charged and accumulated under SAIL Loan 90S-001" (sic), is hereby **DISMISSED**.

DONE and ORDERED this 22nd day of October, 2010.



Florida Housing Finance Corporation

By: Stuart Schrage
Chair

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
Tallahassee, Florida 32399-1300

NOTICE OF RIGHTS

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTIONS 120.542(8), 120.569, AND 120.57, FLORIDA STATUTES. SUCH PROCEEDINGS ARE COMMENCED PURSUANT TO CHAPTER 67-52, FLORIDA ADMINISTRATIVE CODE, BY FILING AN ORIGINAL AND ONE (1) COPY OF A PETITION WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329.